

Decision 02-10-044 October 24, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Water Company (U 133 W) for an Order Authorizing it to Increase Rates for Water Service in its Metropolitan Customer Service Area.

Application 98-03-034
(Filed March 18, 1998)

And Related Matters.

Application 98-03-029
Application 98-03-030
Application 98-03-031
Application 98-03-032
Application 98-03-033
(Filed March 18, 1998)

OPINION GRANTING PETITION TO MODIFY

1. Summary

While the Commission approved a stipulation between Southern California Water Company (SCWC) and the Commission's Water Division in a 1998 SCWC rate case (Decision (D.) 98-12-070), the Commission in its ordering paragraphs did not specifically authorize certain rate filings set forth in the stipulation. SCWC asks that the decision be modified to authorize those filings in order to satisfy concerns of the Water Division. The petition to modify is unopposed and is granted.

2. Background

In its 1998 rate case, SCWC proposed a Long-Term Infrastructure Replacement Program to replace aging facilities in the company's Metropolitan Customer Service Area (CSA). The company at the time stated that much of the water main infrastructure had been constructed more than 40 years before. SCWC identified more than 2 million feet of main needing replacement. As part of its program, SCWC planned to drill and equip two new wells each year and replace 36,000 linear feet of main each year extending through the year 2007.

SCWC sought rate relief for the infrastructure program for six years (2002-2007) beyond those years covered by the general rate case (1999, 2000, 2001). Specifically, the company sought approval to file advice letters in November of each year for six years beginning in November 2001 to recover the revenue requirement associated with the program in each year in the Metropolitan CSA.

The Ratepayer Representation Branch of the Water Division opposed SCWC's request. Ultimately, the parties settled the issue by agreeing that SCWC could file advice letters for two years, in November 2001 and November 2002 to increase rates for 2002 and 2003, respectively. These advice letters were to enable SCWC to recover both the revenue requirement associated with the infrastructure program for 2002 and 2003 and increased costs for authorized expenses for 2002 and 2003 in the Metropolitan CSA. This stipulation was approved and adopted by the Commission in Ordering Paragraphs 1 and 2 of D.98-12-070.

Pursuant to D.98-12-070 and Paragraphs 17.04 and 17.06 of the stipulation, SCWC on November 9, 2001, filed Advice Letter 1105-W to recover costs related to the infrastructure program in 2002 and increased costs in authorized expenses

for 2002. The Water Division in March 2002 rejected the advice letter, stating that the ordering paragraphs in D.98-12-070 approving the stipulation were insufficient to grant the rate recovery sought by SCWC.

SCWC states that while it does not agree with the Water Division, it nonetheless seeks modification of D.98-12-070 to expressly authorize filing of the advice letters in accordance with the stipulation that the Commission had approved.

3. Discussion

SCWC's 1998 general rate case was a contested one covering six SCWC customer service areas, including Metropolitan. With the exception of the issue of rate of return, all issues were resolved in an all-party stipulation that was approved and made part of D.98-12-070 as Appendix D. The relevant sections of the stipulation related to advice letter filings in 2002 and 2003 for the Metropolitan CSA were set forth in Sections 17.04 and 17.06. Those sections stated:

17.04 The Costs of Replacing Infrastructure - - The Parties agree to a modified Infrastructure Replacement Program. The Parties agree that SCWC should have the option of extending the Metropolitan's rates through the year 2003. The costs of replacing infrastructure could be recovered through Advice Letter in 2001, 2002, and 2003. An increase in authorized expenses during the extended period would be allowed based on the most current Price Index (as defined in 17.06). The Parties agree to a band on earnings of 200 basis points either way. Advice Letters will be subject to the revised pro forma test on earnings which will be determined at a later date.

17.06 Price Index – Infrastructure Replacement - - The Price Index will be comprised of the following three factors, which are published on a monthly basis: 1) the

Compensation Per Hour Index, 2) the Non-Labor Index (both published in a memo from the ORA Monopoly Regulation Branch to the Water Division of the Commission, 3) the Construction Cost Index as printed in Engineering & News Reports. Each factor is weighted one-third. The Price Index will determine the maximum change from the prior year's rates.

In rejecting SCWC's advice letter filing for increased rates for the year 2002, the Water Division noted that the stipulation terms do not set forth the requirements for filing with the same degree of specificity that the Commission directed for advice letter filings for the years 2000 and 2001 (Ordering Paragraphs 4 and 5, D.98-12-070). Without such specificity, the Water Division reasoned that approving advice letter filings for the years 2002 and 2003 would require it to go beyond mere ministerial approval and to make judgments beyond those specifically directed by the Commission.

Nevertheless, it is clear that the Commission, in approving the stipulation, intended to authorize SCWC to file advice letters for the years 2002 and 2003 in the manner set forth in Sections 17.04 and 17.06. That intent could have been set forth with specificity in the ordering paragraphs, but was not, in contrast to the more detailed instructions supplied for the filing of advice letters for year 2000 and year 2001 rate changes. In the absence of opposition to the petition for

modification,¹ therefore, we will grant the petition and modify D.98-12-070 to deal with advice letter filings for the Metropolitan CSA for the years 2002 and 2003.

Our decision today grants the relief requested. Therefore, the requirement for 30-day public review and comment on the proposed decision is waived, pursuant to Pub. Util. Code § 311(g)(2).

4. Assignment of Proceeding

Henry Duque is the Assigned Commissioner and Glen Walker is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. In Application 98-03-034, SCWC sought recovery of long-term infrastructure costs in its Metropolitan CSA through the year 2007.
2. SCWC and the Ratepayer Representation Branch of the Water Division were parties to a stipulation that, among other things, permitted SCWC to file advice letters for the years 2002 and 2003 to recover infrastructure costs and authorized expense costs for the Metropolitan CSA.
3. The stipulation was approved by the Commission in D.98-12-070.

¹ Under Rule 47(d) of our Rules of Practice and Procedure, a petition for modification must be made within one year of the effective date of the decision proposed to be modified, unless the petition could not have been presented within that time. Here, as the company notes, the disagreement over the interpretation of the settlement did not become apparent (and normally would not have become apparent) until November 2001, more than a year after the effective date of our 1998 decision approving the settlement. We conclude that the company has adequately justified the submission of its petition more than a year after the effective date of the underlying decision.

4. When SCWC filed its advice letter for recovery of year 2002 costs, the filing was rejected on grounds that the ordering paragraphs of D.98-12-070 did not specifically authorize the advice letter procedures for years 2002 and 2003.

5. SCWC seeks modification of D.98-12-070 to set forth, with specificity, the procedures for filing advice letters for the Metropolitan CSA for the years 2002 and 2003.

6. The petition for modification is unopposed, and is consistent with the Commission's intention in D.98-12-070.

Conclusion of Law

The petition for modification of D.98-12-010 should be granted, effective immediately.

O R D E R

IT IS ORDERED that:

1. The Petition of Southern California Water Company (SCWC) to Modify Decision (D.) 98-12-070 is granted.

2. D.98-12-070 is modified to add the following two paragraphs:

"2.A. On or after November 1, 2001, SCWC is authorized to file an advice letter, with appropriate workpapers, requesting a rate increase for the year 2002 in its Metropolitan CSA to recover (a) the revenue requirement associated with the cost of replacing two wells and 36,000 linear feet of mains (per Paragraph 17.04 of the Stipulation regarding the Infrastructure Replacement Program), and (b) any increases in authorized expenses based on the most current price index as defined in Paragraphs 17.04 and 17.06 of the Stipulation. The advice letter will be subject to the pro forma test on earnings within a band on earnings of 200 basis points either way. The requested rate increase shall be reviewed by Branch to

determine its conformity with this Order and shall go into effect upon Branch's determination of conformity. Branch shall inform the Commission if it finds that the proposed rate increase is not in accord with this Decision. The effective date of the revised schedules shall be no earlier than January 1, 2002."

"2.B. On or after November 1, 2002, SCWC is authorized to file an advice letter, with appropriate workpapers, requesting a rate increase for the year 2003 in its Metropolitan CSA to recover (a) the revenue requirement associated with the cost of replacing two wells and 36,000 linear feet of mains (per Paragraph 17.04 of the Stipulation regarding the Infrastructure Replacement Program), and (b) any increases in authorized expenses based on the most current price index as defined in Paragraphs 17.04 and 17.06 of the Stipulation. The advice letter will be subject to the pro forma test on earnings within a band on earnings of 200 basis points either way. The requested rate increase shall be reviewed by Branch to determine its conformity with this Order and shall go into effect upon Branch's determination of conformity. Branch shall inform the Commission if it finds that the proposed rate increase is not in accord with this Decision. The effective date of the revised schedules shall be no earlier than January 1, 2003."

3. Application (A.) 98-03-034, A.98-03-029, A.98-03-030, A.98-03-031, A.98-03-032, and A.98-03-033 are closed.

This order is effective today.

Dated October 24, 2002, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY

Commissioners